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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,862	12/20/2001	Pat Yananton	1718	1298

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EXAMINER	
SHAW, ELIZABETH ANNE	

ART UNIT	PAPER NUMBER
3644	

DATE MAILED: 09/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/033,862	YANANTON, PAT	
	Examiner	Art Unit	
	Elizabeth A. Shaw	3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 June 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-85* is/are pending in the application.

4a) Of the above claim(s) *7-19, 21-28, 32, 34, 34, 37-40, 42-44, 46, 48-69,* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4, 20, 29-31, 33, 36, 41, 45, 47, 70-72, 75, 77, 78, 82-85* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 1/17/06
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

The indicated allowability of claims 1, 36, 82 are withdrawn in view of the newly discovered reference(s) to Butterworth. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1, 2, 29-31, 71, 75, 77 and 82-84 are rejected under 35 U.S.C. 102(b) as being anticipated by Butterworth (4,129,132). Butterworth shows a particle entrapment pad 32 having an impervious bottom layer 96 and a high loft non-woven non-absorbent layer 23. A cling enhancing substance such as natural wood pulp fibers maybe used for holding particles in place and when deposited by air deposition the natural wood fibers cling to the synthetic wood fibers of the pad 32, the natural wood fibers being of an inherent nature as to be absorbent and reactive to other substances. The air deposition of the natural wood fibers on the pad 32 is considered to be preloading the pad 32 with reactive particles. It is considered that the pad of Butterworth is capable of or adapted to be used in a variety of places and with various uses such as in workshops, offices, refrigerators and near pet food dishes or litter boxes.

Note that statements of intended use or field of use, "adapted to" clauses are essentially method limitations or statements of intended or desired use. Thus, these

claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See In re Pearson, 181 USPQ 641; In re Yanush, 177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 512 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ 2nd 1647.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 3, 72, 78 and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Butterworth in view of Kiebke (5,126,980). Butterworth does not disclose the use of baking soda or odor-counteractive agent. Kiebke shows a litter composition containing baking soda or sodium bicarbonate and a deodorizer, see column 3, lines 56-67. With respect to claims 3, 72, 78 and 85, to use the baking soda and deodorizer of Kiebke with the particle entrapment pad of Butterworth would have been obvious to one skilled in the art in order to control any odors which might develop from the particles trapped within the pad.

Claims 4 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Butterworth in view of Goss et al (6,039,004). Butterworth does not disclose the use of an anti-microbial agent. Goss et al teach the use of an anti-microbial agent with the animal litter. With respect to claim 4, to use the anti-microbial agent of Goss et al

with the particle entrapment pad of Butterworth would have been obvious to one skilled in the art in order to provide a more sanitary area for the animal and more sanitary clean up for the owner.

Claims 20, 36, 41 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Butterworth in view of Harris (6,050,223). Butterworth does not teach the particles being cat litter. Harris shows a pad 14 having a cat litter particles, see figs. 6 and 7 embedded in the pad 14. With respect to claims 20 and 36, to use the teaching of Harris with the pad of Butterworth would have been obvious to one skilled in the art in order to control the spread of litter particles from the litter box. Further, with respect to claim 36, it is considered that once an animal walks on the pad an litter is transferred thereon, if the animal then walks over the litter on the pad again, the litter is forced deeper into the pad and is considered to be embedded in the pad.

Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Butterworth in view of Harris and further in view of Goss et al. Butterworth and Harris do not disclose the use of an anti-microbial agent. Goss et al teach the use of an anti-microbial agent with the animal litter. With respect to claim 45, to use the anti-microbial agent of Goss et al with the particle entrapment pad of Butterworth and Harris would have been obvious to one skilled in the art in order to provide a more sanitary area for the animal and more sanitary clean up for the owner.

Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Butterworth in view of Harris and further in view of Kiebke. Butterworth and Harris do not disclose the use of baking soda or odor-counteractive agent. Kiebke shows a litter

composition containing baking soda or sodium bicarbonate and a deodorizer, see column 3, lines 56-67. With respect to claim 47, to use the baking soda and deodorizer of Kiebke with the particle entrapment pad of Butterworth and Harris would have been obvious to one skilled in the art in order to control any odors which might develop from the particles trapped within the pad.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4, 20, 29-31, 33 and 82-85 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1 and 82 call for a chemically inert matrix of web with a chemically inert cling enhancing substance. Claims 2 and 83 calls for the addition of [chemically] *(added)* reactive particles. Once a chemically reactive substance is added to a chemically inert substance, the nature of the substance is changed and the substance becomes chemically reactive. Therefore the cling enhancing substance can no longer by considered chemically inert.

Allowable Subject Matter

Claims 70 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Shaw whose telephone number is 571-272-6908. The examiner can normally be reached on M-Th 10:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Elizabeth A. Shaw
Examiner
Art Unit 3644

September 1, 2006